too proud to learn and by being willing to listen to objections, and to examine whether the objections are ill or well founded, I hope the friends to education will continue to be progressive in improvement. Y.

For the Belfast Monthly Magazine.

THE OPINION OF SIR JOHN VAUGHAN, CHIEF JUSTICE OF THE COURT OF COMMON PLEAS, ON THE 9th OF NOVEMBER, 1670, WHEN THE CASE OF EDWARD BUSHELL, ONE OF THE JURORS IN THE FAMOUS CASE OF PENN AND MEAD, CAME TO BE ARGUED ON WRIT OF HABEAS CORPUS.

Edward Bushel had been committed by the Lord Mayor, Recorder and Aldermen, at the Old Bailey; "for that contrary to law, and against full and clear evidence openly given in court, and against the direction of the court in matter of law, he, as one of the Jury had acquitted Wm. Penn, and Wm. Mead, to the great obstruction of justice." After a solemn argument before the twelve judges, the above was resolved "to be an insufficient cause for fining and committing the jury."

This admirable defence of Juries and clear exposition of their full powers, will be found to be conclusive against the assertions of the Attorney General, subsequent to the trial of Dr Sheridan, and demonstrates the fallacy of the distinction attempted to be set up, that the Jury had acquitted only on the question of the fact, while the court had determined the question of illegality, on the point of law. The Jury are and ought to be, sole judges BOTH OF LAW AND FACT; *or trial by Jury, and the liberty of the subject are idle names.*

"IT is common for Students, Barristers, or Judges, to deduce contrary and opposite conclusions out of the same case in law; and there is no difference that two men should infer distinct conclusions from the same testimony. What a witness says, may in the understanding of one man prove one thing, but in the apprehension of another clearly the contrary.

"If a Judge, having heard the evidence given in Court (for he knows no other,) should tell the jury upon this evidence, that the law is for the plaintiff or for the defendant, and they are under pain of fine and imprisonment to find accordingly; if the jury ought in duty, so to do, trial by jury would be but a troublesome delay, of great charge, and no use in determining right and wrong, and had better be abolished than continued: for if the Judge, from the evidence, shall, upon his own judgment, first resolve what the fact is, and so knowing the fact, shall then resolve what the law is, and order the jury under a penalty, to find accordingly, it can be of no use to continue trials by juries.

"Without a fact agreed, it is imposible for the Judge to know the law relating to the fact, or direct concerning it. The Judge can never direct what the law is in any matter controverted, without first knowing the fact.

"The Judge, merely as judge, cannot possibly know the fact otherwise than from the evidence, which the jury have; but he can never know what evidence the jury have, and consequently cannot know the matter of fact, nor punish the jury for going against their evidence; for he cannot know what their evidence was.

"If the jury were to have no other evidence of the fact than what is delivered in court, the Judge would know their evidence, and might know the fact equally as well as they, and so direct what the law is; but

even then the judge and Jury might honestly differ in the result from the evidence, as well as two Judges may, which often happens.

"The jury being returned of the country and neighbourhood, where the cause of action arose, the law supposes them to have sufficient knowledge to try the matter at issue. They may have evidence from their own personal knowledge, by which they may be assured, and sometimes are, that what is deposed in court is absolutely false; to this the Judge is a stranger, he knows no more of the fact than what he heard in court, and perhaps from false witnesses, and consequently knows nothing. The jury may know the witnesses to be stigmatized and infamous, which may be unknown to the parties, and consequently to the court.

"In many cases it is necessary for the information, that they have a view of the place in question; to this evidence the Judge is a stranger. If the jury follow the direction of the Judge, the verdict may be reversed by attaint, and they punished for that which if they had not done, they should have been fined and imprisoned by the Judge; which is unreasonable.

"If they do not follow the direction of the Judge, and are therefore fined and imprisoned, yet they may be attainted, and so doubly punished by distinct judicatures for the same offence; which the common law will not admit of.

"To what end is the Jury to be returned out of the neighbourhood where the cause of action arose? To what end must hundredors be of the jury, whom the law supposes to have better knowledge of the fact, than those of the neighbourhood in general? To what end are they challenged so scrupulously to the array and poll? To what end must they have such a certain freehold, and be good and lawful men, and not of affinity to the parties concerned? To what end must they in many cases have the view for their better information chiefly? To what end must they undergo the heavy punishment of villainous judgment upon an attaint, if, after this, they must implicitly give a verdict by the dictates and authority of another man, under pain of fine and imprisonment, when sworn to do it according to the best of their own knowledge?

"A man can no more infer or conclude a thing to be resolved by another man's understanding or reason, than he can see by another's eye, or hear with another's ear.

"If the jury give a right verdict, yet, if they are not assured it is so from their own understanding, they are forsworn, at least in conscience.

"It is absurd to fine a Jury for finding against their evidence, when the Judge knows but part of it; for the better and greater part of the evidence may be wholly unknown to him.

"The legal verdict of the Jury to be recorded is finding for the plaintiff or defendant: what they answer, if questioned concerning some particular fact, is not of their verdict essentially, neither are they bound to agree in such particulars, if they all agree to find their verdict for the plaintiff or defendant, then they may differ in their motives, as well as Judges may differ in their reasons for giving their verdict for the plaintiff or defendant, which is common."